

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JAMES E. COHAN,

Plaintiff,

v.

JUDGE BROWN, LAS VEGAS
MUNICIPAL COURT, et al.,

Defendants.

Case No. 2:20-cv-01187-RFB-EJY

REPORT AND RECOMMENDATION

On June 22, 2022, Plaintiff filed a proposed complaint under 42 U.S.C. § 1983 (ECF No. 1-1); however, Plaintiff failed to file a complete *in forma pauperis* (“IFP”) application or pay the required filing fee. On November 15, 2021, the Court granted Plaintiff through and including December 15, 2021 to pay the appropriate filing fee or submit a complete IFP application. ECF No. 4. The Court noted that failure to comply with the Order may result in a recommendation to dismiss this action without prejudice. *Id.*

District courts have the inherent power to control their dockets and, “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to prosecute an action or failure to obey a court order. *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (affirming dismissal for failure to comply with an order requiring amendment of complaint); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with local rules). A court’s warning to a party that his failure to obey the court’s order will result in dismissal satisfies the “consideration of alternatives” requirement. *Ferdik*, 963 F.2d at 1262. As of the date of this Order, Plaintiff has not paid the appropriate filing fee or submitted a complete IFP application. As such, dismissal is appropriate.

1 Accordingly, IT IS HEREBY RECOMMENDED that this matter be dismissed without
2 prejudice for failure to comply with the Court's November 15, 2021 Order.

3 Dated this 28th day of March, 2022.

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6 ELAYNA J. YOUCHAK
7 UNITED STATES MAGISTRATE JUDGE

8 **NOTICE**

9 Pursuant to Local Rule IB 3-2, any objection to this Report and Recommendation must be in
10 writing and filed with the Clerk of the Court within fourteen (14) days. The Supreme Court has held
11 that the courts of appeal may determine that an appeal has been waived due to the failure to file
12 objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This Circuit has
13 also held that (1) failure to file objections within the specified time and (2) failure to properly address
14 and brief the objectionable issues waives the right to appeal the District Court's order and/or appeal
15 factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir.
16 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).